

REMARKS

Claims 1-53 and 58-60 were pending in the present application, from which claims 18, 33, 35, 36, 39, 43, 44 and 52-57 have been withdrawn from consideration. By this amendment, claims 47-53 have been cancelled and new claims 61-72 have been added. It is respectfully submitted that the pending claims define allowable subject matter.

Initially, the undersigned would like to thank the Examiner for speaking with him regarding the present application on March 26, 2008. As discussed during the phone call, the Applicant would like to amend the independent claims 1 and 58 to include the subject matter of claim 59. Claim 59 is dependent upon claim 1 and was indicated as containing allowable subject matter in the Office Action. The Examiner believed that there would be no objection to amending claim 58 to include the subject matter of claim 59.

Regarding the provisional obviousness-type double patenting rejections, it is believed that the claim limitations added with this Amendment are patentably distinct from the claims of the co-pending application Nos. 11/063,665 and 11/226,892. Applicant reserves the right to file a terminal disclaimer at a later time should it be desirable to do so to expedite prosecution.

Regarding the Section 112, first paragraph, rejection of claim 46, Applicant submits that the claimed subject matter is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. More specifically, the Application supports a microbead that includes both holographic codes and protrusions. As described in the Application, the microbead includes an optically readable code. (See, for example, page 9 at line 14 through page 10, line 10). Figures 39-50 describe alternative geometries of the microbead. (page 35, line 12). In particular, Figure 47 illustrates that the microbead “may have one or more protruding portions or teeth....” (page 38, lines 15-16). Thus, Applicant respectfully requests that the Section 112 rejection of claim 46 be withdrawn.

Turning to the substantive rejections, claims 47, 50, and 51 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Empedocles et al (US 2002/0031783). Claims 47-49 have been rejected under 35 U.S.C. § 102(e) as being anticipated by

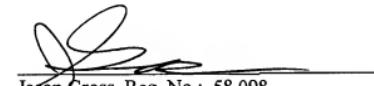
Boulton et al (USP 6,027,694). Claims 1, 4-7, 16, 26-29, and 58 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Empedocles in view of Ravkin (USP 6,908,737). Claims 2, 3, 8-15, 17, 30, 34, 42, and 45 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Empedocles in view of Ravkin and further in view of Pope (US 2002/0197456). Claims 19-25, 31, 32, and 37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Empedocles in view of Ravkin and further in view of Seul et al. (US 2003/0082587). Claims 38, 40, and 41 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Empedocles in view of Ravkin and further in view of Phan et al. (US 2003/0082568). Claim 60 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Empedocles in view of Ravkin and further in view of Barlow et al. (USP 5,682,244).

As indicated above, in order to expedite prosecution of the application, the subject matter of claim 59 has been incorporated into independent claims 1 and 58. Thus, the Section 102 and 103 rejections are respectfully traversed.

In view of the foregoing comments, it is respectfully submitted that the applied references fail to teach or suggest the claimed invention. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,

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Jason Gross, Reg. No.: 58,098
The Small Patent Law Group LLP
611 Olive Street, Ste. 1611
St. Louis, MO 63101
314-584-4081